

## APPENDIX

### Federal Rules of Civil Procedure:

#### RULE 6. *Time.*

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(b) *Enlargement.*—When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may, at any time in its discretion (1) with or without motion or notice, order the period enlarged if application therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion permit the act to be done after the expiration of the specified period where the failure to act was the result of excusable neglect; but it may not enlarge the period for taking any action under Rule 59, except as stated in subdivision (c) thereof, or the period for taking an appeal as provided by law.

(c) *Unaffected by Expiration of Term.*—The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the expiration of a term of court. The expiration of a term of court in no way affects the power of a court to do any act or take any proceeding in any civil action which has been pending before it.

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#### RULE 60. *Relief from Judgment or Order.*

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(b) *Mistake; Inadvertence; Surprise; Excusable Neglect.* On motion the court, upon such terms as are just, may relieve a party or his legal representative from a judgment, order, or proceeding taken against him through his mistake, inadvertence, (surprise, or excusable neglect. The motion shall be made within a reasonable time, but in no case exceeding six months after such judgment, order, or proceeding was taken. A motion under this subdivision does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court (1) to entertain an action to relieve a party from a judgment, order, or proceeding, or (2) to set aside within one year, as provided in Section 57 of the Judicial Code, U. S. C., Title 28, § 118, a judgment obtained against a defendant not actually personally notified.

Rules of the District Court of the United States for the Western District of New York (Effective November 1, 1938):

**RULE 11.** *Dismissal for Want of Prosecution.*

In any cause or proceeding which might have been brought to trial or hearing, but in which no action has been taken by the parties for one year, it shall be the duty of the clerk to mail notice thereof to the attorneys of record or to the parties thereto, if their post-office addresses are known, thirty days before the opening of the next succeeding March or November term of court. If such notice has been given and no sufficient cause be shown at the opening of such term of court, an order of dismissal without prejudice shall be entered by the clerk as of course.

(This is a revision of Rule 8 in effect prior to November 1, 1938.)

**RULE 16. *Trial Calendar and Adjournments.***

Causes shall be placed on the trial calendar in the order of their respective dates of issue. The first ten causes on the calendar for any term shall constitute the day calendar for the first day fixed for the trial of civil causes at that term. The day calendar for each subsequent day of the term shall consist of ten causes taken in regular order from the general calendar of causes not disposed of, and shall be made up by the clerk not later than four P. M., on the preceding day. Any cause so placed on the day calendar by the clerk shall be deemed ready for trial and may be moved by either party who has served a notice of issue as provided in these rules. If the cause so placed on the day calendar is not moved by either party at the call of the calendar at the opening of court, it must be stricken from the calendar and shall not be restored to the same or to any subsequent calendar of the court except on motion on at least two days' notice and for good cause shown. No adjournments or continuances shall be allowed except for good cause shown.

(This is a revision of Rule 12 in effect prior to November 1, 1938.)